

TEMPORARY DIRECTIVE TRANSMITTAL

Number: 99-01(T)

August 30, 1999

VIOLENCE IN THE WORKPLACE

1. **Purpose.** This temporary directive transmittal establishes the Federal Emergency Management Agency's (FEMA) policy and procedures regarding violent acts or threats of violence, or other inappropriate behavior that has the potential for causing harm to one's self or others in the performance of official duties.
2. **Applicability and Scope.** This temporary directive is applicable to all FEMA employees in headquarters, regions, field establishments, including disaster field offices and disaster fixed sites. The provisions of this transmittal also apply to contractors and personnel from other agencies who are performing official duties in support of FEMA's mission.
3. **References.**
 - a. Director's Memorandum, Violence in the Workplace, dated November 29, 1995.
 - b. FEMA Manual 3310.1, Disciplinary/Adverse Actions Procedures, dated September 16, 1981.
 - c. Title 5, Code of Federal Regulations, Part 2635, Standards of Ethical Conduct for Employees of the Executive Branch.
 - d. Title 5, Code of Federal Regulations, Part 752, Adverse Actions.
4. **Policy.** It is the policy of FEMA to strive to minimize the likelihood of violence in the workplace through early intervention. Acts or threats of violence (explicit or implied) will not be tolerated. Employees found in violation of this policy will be subject to disciplinary action, up to and including termination of employment, and referral to appropriate law enforcement authorities. For other than FEMA employees, comparable appropriate action will be taken. Supervisors and managers should contact the Security Division of the Operations Support Directorate, Employee and Labor Relations Division of the Office of Human Resources Management, or Office of General Counsel for appropriate guidance.
5. **Definitions.**

- a. **FEMA Facility.** FEMA facilities include any location occupied by FEMA where individuals are present for the purpose of performing official duties in support of FEMA's mission.
- b. **Dangerous Weapon.** A device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury.
- c. **Violence.** An action which causes, is intended to cause, or is perceived as an intent to cause physical harm to persons or damage to property.
- d. **Threat.** Any gesture, act, or oral or written expression which is perceived as an intent to cause physical harm to persons or damage to property.
- e. **Crisis Management Plan.** A set of procedures designed to respond to a violent act or threats of violence. A copy of the plan must be given to each member of the Crisis Management Team.
- f. **Crisis Management Team.** A group of individuals at each FEMA Facility who are trained to respond to a violent act or threats of violence through activation of the Crisis Management Plan.

6. **Responsibilities.**

a. **Associate Directors, Administrators, Regional Directors and Federal Coordinating Officers (or designee) shall:**

- (1) Ensure that a Crisis Management Plan has been developed and approved by the Security Division (OS-SY) to meet local needs, and is tested and implemented for each facility under their management control. Guidance for developing the plan can be found in Attachment A.
- (2) Ensure that a Crisis Management Team has been appointed and Trained at each facility under their organizational control. Teams will be staffed by full-time security personnel if assigned to the facility.
- (3) Ensure that all employees in their organization have attended mandatory training on the program.
- (4) Promote an environment which strives to minimize the likelihood of violence at work.

b. **Managers and Supervisors shall:**

(1) Promote an environment which strives to minimize the likelihood of violence for employees under their supervision by:

(a) Demonstrating respect for all employees and holding them accountable for their behavior.

(b) Refusing to tolerate harmful, threatening, intimidating, harassing, disruptive, or other inappropriate behavior in the workplace.

(c) Monitoring, assessing, and responding to employee complaints, credible reports of threats, questionable behavior or prohibited conduct.

(d) Observing the warning signs of inappropriate or prohibited behavior and immediately reporting employee complaints and other questionable actions to the Security Division or the Employee and Labor Relations Division. In instances of imminent danger, immediately contact a member of the local Crisis Management Team or appropriate law enforcement authorities.

(e) Preserving the confidentiality of employee complaints by sharing information only with those who have a need to know in order to carry out official government business. Incident reports, related information, and the privacy of persons involved must be protected, just as in other sensitive and confidential personnel matters. The exception is when there is evidence of a direct threat or potential harm to self or others.

(2) Attend violence in the workplace training and ensure that subordinate staff attend the training, as well. Managers and supervisors are encouraged to take advantage of other training opportunities to improve skills in areas such as human relations, interpersonal communications, conflict management, and defusing hostility.

(3) Encourage employees to seek appropriate assistance through the Employee Assistance Program (EAP).

c. **Employees.** It is the responsibility of all employees, including other persons supporting FEMA's mission to:

(1) Respect all persons and government property, and refrain from behavior that could be perceived as threatening, harassing, intimidating, or dangerous to yourself or others.

(2) Report violent acts or threats of violence to your immediate supervisor, the Security Division or the Employee and Labor Relations Division. Information regarding a threat or harmful act, where you reasonably believe that the circumstances may lead to a harmful act, should be reported immediately.

(3) Refrain from reporting false information or making unfounded complaints against others. Any individual who knowingly makes a false report or unfounded complaint will be subject to disciplinary action and may also result in referral to the Office of Inspector General for investigation and possible criminal prosecution.

(4) Attend violence in the workplace training. Training is mandatory for FEMA employees, and attendance is encouraged for other individuals employed at FEMA facilities.

(5) Cooperate and participate in efforts recommended to resolve workplace concerns.

d. **Crisis Management Team shall:**

(1) Assist in the development of a local Crisis Management Plan to ensure that employees and supervisors at the facility will know who to contact and how to respond to conflicts, violent acts or threats of violence that arise in the workplace.

(3) Immediately notify the Security Division or local law enforcement officials when a violent situation occurs.

(4) Coordinate response to incidents with the Security Division.

(5) Submit after action reports of incidents, including recommendations for future actions, to the Security Division.

e. **Associate Director, Operations Support Directorate (OS) shall:**

(1) Provide policy and oversight for the development of the FEMA Violence in the Workplace Program, including guidance for the development of Crisis Management Plans and approval of each local plan.

(2) Provide oversight and assistance to Crisis Management Teams in each FEMA facility, including selection criteria for team members and training of members.

(3) Provide advisory service and assistance to managers, supervisors, and employees on matters related to acts or threats of violence at any FEMA facility.

(4) Ensure that appropriate investigations of acts or threats of violence are accomplished and the results forwarded to proper management officials. Also coordinate with the Offices of General Counsel, Inspector General, Human Resources Management, Equal Rights, Employee Assistance Program and others, as appropriate.

(5) Assist the Preparedness, Training and Exercises Directorate in the development of the education and training component of the program.

(6) Monitor and assess compliance with the program.

f. **Director, Office of Human Resources Management (OHRM)**
shall:

(1) Provide advisory service and assistance to Crisis Management Teams in each FEMA facility, as warranted.

(2) Provide advisory service and assistance to managers, supervisors, and employees regarding inappropriate behavior in the workplace. Inappropriate behavior includes fighting, threatening, intimidating, harassing, disruptive, or other harmful behavior.

(3) Provide assistance to supervisors and managers regarding disciplinary and/or adverse actions for inappropriate behavior at work.

(4) Coordinate with appropriate supervisors, security and other staff regarding reported incidents or potential for incidents in the workplace.

(5) Coordinate with the Office of General Counsel concerning disciplinary and/or adverse actions for inappropriate behavior.

(6) Assist in the development of the education and training component of the program.

g. **Associate Director, Preparedness, Training and Exercises**
Directorate (PT&E) shall:

(1) Assist in the development and delivery of training to employees, supervisors, managers, and Crisis Management Team members.

(2) Ensure that appropriate resources are provided to support the education and training component of the FEMA Violence in the Workplace Program.

7. **Supplementary Guidance.** Attached to this temporary directive are four documents for use in implementing and enforcing the Agency's Violence in the Workplace Program Policy:

(1) Guidelines for Developing a Crisis Management Plan;

(2) Preventing and Addressing Workplace Violence;

(3) Employee Relations Considerations; and

(4) Employee Assistance Program Considerations.

All personnel are encouraged to review the documents and keep them available for future reference.

8. **Additional Assistance.** The critical element in preventing workplace violence is early intervention in situations which might lead to violence. All managers, supervisors, and employees should contact the Security Division or the Employee and Labor Relations Division if they witness or are informed of abusive or threatening behavior.

9. **Point of Contact.** Direct comments and questions regarding this policy and procedures to Lawrence Berenson, Security Division, Operations Support Directorate at FEMA Headquarters, Federal Center Plaza Building, room 528. He can be reached at FSN 651-2900.

10. **Expiration Date.** The provisions of this temporary directive expires August 31, 2000 or until superseded.

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Attachments (*attachments follow below*):

- A - Guidelines for Developing a Crisis Management Plan
- B - Preventing and Addressing Workplace Violence
- C - Employee Relations Considerations
- D - Employee Assistance Program Considerations

Attachment A

Guidelines for Developing a Crisis Management Plan

A. Purpose. This document is designed to assist facility managers and other appropriate staff in the development of local Crisis Management Plans, as required by the FEMA Temporary Directive Transmittal, No. 99-01 on Violence in the Workplace.

B. Crisis Management Plan (CMP). The Plan should include the following:

1. The Plan should identify members of the Crisis Management Team (CMT).
2. The Plan should be designed to provide guidelines on minimizing danger to employees and visitors in the event of a “traumatic” violent incident at a FEMA facility. It should also provide guidance on how to respond when such an incident occurs. It must be emphasized that under no circumstances should FEMA personnel attempt to confront a violent person with the purpose of disarming or subduing him/her, as this responsibility lies exclusively with law enforcement officials.
3. The Plan should cover basic issues, such as who is responsible for building security, how to obtain medical attention, role of local law enforcement and/or the Federal Protective Service, role of employees and supervisors, how the building should be evacuated if necessary, how employees should contact their supervisors if cut off from the work site, how to continue operations under unusual circumstances, identification of resources for response to a traumatic event, how to handle accommodations for injured employees, inventory of individuals with special skills that could be utilized during a violent situation, and arranging for overtime pay if needed.
4. The Plan should be activated when an act of violence is being committed within a FEMA facility. The Plan is a companion to the FEMA Temporary Directive Transmittal on Violence in the Workplace. That Transmittal seeks to minimize the likelihood of violence through early

intervention when the behavior of an individual demonstrates the potential for violence.

5. The Plan should be structured to make it easy for all employees to provide assistance to other individuals during an act of violence and provide assistance to law enforcement and emergency medical personnel who are responding to the incident.

6. The Plan should also include the following for use by law enforcement and medical responders:

a. Facility Profile. This section should include a complete description of the facility, including floor plans, location of electrical and telecommunications entry points, evacuation routes and an organizational map as to where each staff is located. It should also include descriptions of windows, doors, partitions and any other information that would be useful to responders.

b. Personnel Profile. This section should include current personnel rosters with office locations and telephone numbers. It should also identify members of the CMT and their location, and any employees who may have collateral experience in emergency medical response or law enforcement or other special skills that could be utilized in case of emergency.

c. Notification. This section should clearly identify the procedures for notifying management of the need for activation of the Plan and how the CMT is activated. The procedure should be articulated in a fashion that will eliminate delays due to absence of management officials or CMT members. It should also have specific instructions on how local law enforcement officials are notified and how best to describe what is happening during a “911” call.

d. Protection of Staff. This section should identify how all staff are notified of the emergency and how the CMT functions to assist in evacuation. This would be a site-specific section and may utilize a wide variety of methods including telephone alert, loudspeaker announcements, personal contact, and even coded messages via telephone or e-mail. Suggest using imagination by the most effective means possible, in order to get employees out of danger safely and quickly.

e. Liaison. This section should provide specific instructions on how to communicate with arriving responders. Keep in mind that the responders will have to view all people at the scene as potential perpetrators until they have been clearly identified as victims. Suggest consulting with local law enforcement officials during development of the CMP to determine the best way for CMT members to identify themselves. In addition, if at all possible, members of the CMT should pool their information and attempt to verify and reconcile the information that each one may have to ensure that the responders have the most accurate and complete information available.

C. Crisis Management Team (CMT).

1. A Crisis Management Team should be established at each FEMA facility and should consist of members who are trained to respond to threats, violent acts, or potentially violent situations through activation of the Crisis Management Plan. The CMT is also responsible for developing the local Crisis Management Plan for that facility.

2. The Crisis Management Team should consist of a cross-section of representatives with varied expertise, where possible, to include security, supervisors, employee relations and equal opportunity staff, Employee Assistance Program Counselor (or Stress Management Counselor), and union representative where a bargaining unit exists. The Security Division and Employee and Labor Relations Division will consult with other officials as appropriate to the situation.

(a) Headquarters. The Director, Security Division (or designated management official of the Division) will direct the activities of the Headquarters CMT. Members of the Response and Facility Security Branch and contract security guard force are primary members of the Team, along with representative from the varied areas of expertise, and union representative, as stated in subparagraph 2 above. The Director, Deputy Director, Chief of Staff, and Executive Associate Director, Operations Support Directorate will be kept apprised of CMT activities, depending on the availability of these officials.

(b) Mount Weather Emergency Assistance Center. The Chief, Deputy Chief, or Shift supervisor of the Mount Weather Police Force will direct the activities of the Mt. Weather CMT. The CMT will consist of

members of the police force, along with representatives from the varied areas of expertise and union representative, as stated in subparagraph 3 above. Where expertise is not available onsite, representatives should be contacted by phone for assistance. The Director or Deputy Director of the Mount Weather Management Division will be kept apprised of CMT activities at that location, depending on the availability of these officials.

(c) National Emergency Training Center. The Assistant Administrator for Management Operations and Student Support Safety, U.S. Fire Administration will direct the activities of the CMT. The Safety and Security Specialist and contract guard force are primary members of the CMT, along with representatives from the varied areas of expertise, and union representative, as stated in subparagraph 2 above. Where expertise is not available onsite, representatives should be contacted by phone for assistance. The U. S. Fire Administrator, Deputy U.S. Fire Administrator, Chief Operating Officer of the U.S. Fire Administration, Superintendent of the National Fire Academy, or Superintendent of the Emergency Management Institute will be kept apprised of the CMT activities, depending on the availability of these officials.

(d) Regional Offices. The Deputy Regional Director will direct the activities of the CMT. The CMT will consist primarily of management staff, onsite contract guards, other designated personnel, and union representative, where bargaining units exist. Appropriate expertise not available onsite, as stated in subparagraph 2 above, should be contacted by phone for assistance. The Regional Director will be kept apprised of CMT activities.

(e) Fixed Disaster Sites. The Security Specialist onsite will direct the activities of the CMT. The CMT will consist primarily of management staff, onsite contract guard (if available), and other designated personnel. Appropriate expertise not available onsite, as stated in subparagraph 2 above, should be contacted by phone for assistance. The Facility Director will be kept apprised of CMT activities.

(f) Disaster Field Offices. The Security Specialist onsite will direct the activities of the CMT. If there is no Security Specialist, the Deputy FCO will direct the activities of the CMT. The CMT will consist primarily of management staff, onsite contract guard (if available), and other designated personnel. Appropriate expertise not available onsite, as stated in

subparagraph 3 above, should be contacted by phone for assistance. The FCO will be kept apprised of CMT activities.

(g) Other FEMA Facilities. The Director or Deputy Director of the facility and designated personnel will comprise the CMT. At small temporary sites it is not necessary to establish a CMT with the varied areas of expertise as stated in subparagraph 2 above; however, appropriate expertise should be consulted by phone, when warranted.

D. Role of Federal Protective Service Police (FPS) and Local Law Enforcement. It is critical to define, up front, the role of the FPS and local law enforcement officials to alleviate any misunderstandings or conflicts in advance of an emergency situation. Each management official designated to direct a CMT for a FEMA facility will be responsible for coordinating the Plan with the Federal Protective Service Police and/or local law enforcement officials, as determined appropriate. It is essential for the facility manager and director of the CMT to know who has jurisdiction to respond in case of an emergency at the facility.

E. Role of Supervisors and Employees. Supervisors and employees should familiarize themselves with the procedures detailed in the Plan and the Plan should describe their role and responsibilities, as well.

F. Procedures for Responding to Imminent Danger. Although effective response to violence is often complex, there is a basic approach that can be effectively used by personnel who are not trained in security or law enforcement. For the purposes of this Plan, four easy steps are outlined below:

1. Evaluate. When an act of violence is reported, a decision must be made as to an appropriate course of action. The following guidelines should be followed:

a. If an act of violence involving criminal activity has occurred and the incident has concluded, security or law enforcement should be called. This may require a "911" call if FEMA security staff is not on site. Under this condition, steps 2, 3, and 4 ("Notify", "Evacuate" and "Inform") need not be followed.

b. If an act of violence occurs and is not concluded, the CMP should be activated and a "911" call should be made. If FEMA security staff is on site, they should be notified first. As part of this step, members of the CMT and other employees should begin gathering information about the incident.

2. Notify. As soon as the decision to activate the CMP has been made, a "911" call should be made. As much information as currently available should be shared with the "911" operator. Do **not** delay the call to gather additional information. Whoever makes the call should be prepared (if safe) to stay on the line. Other personnel should provide the caller with additional information as available. This information can be forwarded to the "911" operator and then to the responders.

As soon as possible, the Security Division at FEMA Headquarters should be notified of the incident. Security staff will notify other offices with a need to know, such as OHRM, OGC, OIG, Equal Rights, and union representative.

3. Evacuate. Evacuate the facility as quickly and as orderly as possible. Do not merely sound the fire alarm. Keep in mind that normal evacuation routes may bring personnel into dangerous areas during a violent incident. Different routes should be considered in the CMP to safely evacuate employees.

4. Inform.

a. One key to effective response to a violent incident is the accuracy of information provided to law enforcement officials when they arrive. It is often difficult for police officers to accurately assess the situation when confronted with numerous conflicting reports provided by personnel evacuating the building.

b. To minimize conflicting reports, the CMT should serve as the information gathering point and provide the police with as much accurate information as possible. They should provide further assistance by describing the physical layout of the facility and directing responders to entrances and exits, provide telephone numbers for the area of the incident and estimates of the number of personnel remaining in the facility and their location.

c. Please note that police officers arriving at the facility will not be able to easily distinguish victims from suspects. Personnel approaching the police to provide assistance should be prepared to provide identification and follow police directions at all times.

G. Training.

1. The Security Division will provide briefings and training for members of the CMT on their specific responsibilities.

2. The CMT will be responsible for briefing its employees and managers on the CMP for their facility, so that the staff can understand the purpose and procedures that should be followed. This will also provide an opportunity for employees to get to know members of the CMT.

H. Approval of the Crisis Management Plan.

1. The CMT drafts the Plan for review and concurrence by the Facility Manager.

2. The Plan should be forwarded to the Director of Security for review prior to implementation, to ensure compliance with the FEMA Violence in the Workplace program.

I. Caution. Dealing with a violent act in the workplace is a complex task. There is no simple foolproof plan for successfully dealing with any and all situations. The procedures outlined above are intended to provide a set of actions designed to help bring a violent incident to a safe and rapid conclusion.

The procedures outlined above should never be undertaken by CMT members or other employees if, by doing so, they place themselves or others in danger.

Attachment B

Preventing and Addressing Workplace Violence

A. Introduction.

There are no fail-safe measures to ensure that violence will not occur. Our chances to prevent acts of violence greatly improve with increased awareness of potential warning signs and rapid response to a potential problem. Employees and supervisors are encouraged to do their part and report any inappropriate or unacceptable behavior that is disruptive, provoking, harassing, threatening, or unsafe. Early action and intervention can serve to diffuse a potentially dangerous situation and prevent the occurrence of violence.

This document, therefore, highlights warning signs, identifies intervention procedures, and provides some specific steps to take if individuals find themselves in a violent or threatening situation. The likelihood of a violent act occurring to or being committed by a FEMA employee or visitor in a FEMA facility is not high, but the occurrence of such an incident could have catastrophic consequences. Prevention is an essential approach to minimize the occurrence of workplace violence. Prevention efforts are not limited to those discussed in this document. They only serve as suggested ways to handle adverse circumstances.

B. Identify and Evaluate Unacceptable Behavior.

The employee's immediate supervisor is responsible for evaluating signs of unacceptable behavior or misconduct and taking appropriate action to put the employee on notice that such acts will not be tolerated. In most cases, the supervisor will face behavior or misconduct that can be handled administratively. There may also be instances when the supervisor will need to make a quick decision on whether the situation creates an immediate danger and requires the removal of the employee from the work site and/or the assistance of appropriate security personnel or law enforcement officials. Contingency plans for such occurrences shall be developed and disseminated

locally so supervisors will know whom to contact in cases of emergency. It is imperative that supervisors work closely with the security staff and human resources staff to ensure actions taken are in accordance with personnel management guidance.

C. Warning Signs and Examples of Unacceptable Behavior.

Recent studies indicate violent occurrences rarely happen without some warning. Before actually becoming violent, there are patterns of behavior or other activities that may serve as warning signs of violence. **However, not everyone exhibiting warning signs will become violent.** Examples of violent behavior range from property damage to verbal abuse, threats, harassment or physical assault. The following list is not intended to be all inclusive but provides some examples:

1. Concealing or using a weapon.
2. Obsession with weapons.
3. Physically assaulting a co-worker.
4. Making direct or indirect threats, either in person or in writing, through phone calls or electronic mail.
5. Stalking, harassing or showing undue focus on another person.
6. Intimidating or instilling fear in others.
7. Talking about “getting even”.
8. Throwing or striking objects.
9. Actions which damage, destroy, or sabotage property.
10. Physically aggressive acts, like shaking fists at another person, kicking, verbally cursing at others, pounding on desks, punching a wall, angrily jumping up and down, and screaming at others.

According to the experts, whenever a person engages in violent behavior, he or she has chosen aggression over nonviolent alternatives. It is possible to intervene and prevent a violent incident at any point, using appropriate strategies. Key elements to successful intervention include treating employees fairly and with dignity, and in no instance, giving the employee the perception of provocation or personal attack.

It is difficult to predict human behavior. Different scenarios are possible depending upon the personality types and mood of the individuals involved. Some individuals are overly reactive but nonviolent, while others may react violently with little apparent provocation. In order for supervisors and employees to be knowledgeable of the warning signs and appropriate action to take, local training shall be offered.

D. Intervention/Investigation.

With assistance from the Crisis Management Team, the supervisor will intervene quickly to investigate and take appropriate disciplinary/adverse action on all acts or potential acts of violence. Appropriate action shall be taken when standards of conduct are violated, when the employee's job performance or job performance of others is affected, or when the mission of FEMA and efficiency of the service are affected. In offices with no security or employee relations staff, the supervisor should consult with the staff by phone. An EAP counselor should also be contacted for assistance as soon as possible, when warranted.

The most valuable information can often be obtained from co-workers who may be more familiar with a particular employee than the employee's supervisor. All employees are encouraged to identify and report acts of violence and potential violence. Supervisors must not tell the employee who made the report due to the potential for aggressive or threatening behavior toward the employee who reported the incident and may discourage employees from reporting acts of violence. Reporting of a potential problem using anonymity, such as a hotline, may be implemented locally. Employees are also advised that frivolous unfounded accusations of violent acts against others will not be tolerated, and that such reports may subject the employee to appropriate discipline.

1. Intervention Techniques.

a. When an employee exhibits signs of violence, and the situation is not life threatening, diffuse the anger by using the following techniques:

- 1) Meet with the employee in private to discuss the inappropriate behavior. Build trust by listening and treating the employee with respect.
- 2) Do not argue, get defensive, or be sarcastic.
- 3) Take all threats or acts of violence seriously.
- 4) Counsel the employee about the misconduct and how it affects the work of other employees, with a specific warning on future disciplinary action if behavior continues. Appropriate discipline may be warranted for a first offense, depending on the facts involved.
- 5) Inform the employee that EAP services are available and recommend that the employee take advantage of them.
- 6) Call the EAP Counselor for consultation on the employee's behavior. You should also contact the servicing ELR Specialist for assistance.

b. If you are unable to diffuse the situation and the threat of violence persists:

- 1) Remain calm and do not put yourself or any staff member in a position to be injured.
- 2) If you are meeting alone with the employee, ask the employee to remain and excuse yourself from the meeting.
- 3) Call the appropriate officials as outlined in the Crisis Management Plan for assistance, including the EAP.

4) After the situation has calmed down, counsel the employee in writing on the effect of the violent behavior and initiate appropriate disciplinary action based on the misconduct and/or disruption.

c. If a violent situation occurs:

1) Remain calm and do not put yourself or any staff member in a position to be injured.

2) Call the appropriate officials as outlined in the Crisis Management Plan for assistance, including the EAP.

3) Once the danger has passed, take appropriate disciplinary action.

2. Results of Investigation.

a. For Extreme Misconduct:

1) Supervisor and appropriate members of the CMT shall meet with the employee and advise that misconduct is unacceptable and that access to the building is restricted, until further notice.

2) Advise employee of placement on administrative leave (paid non-duty status) until it is decided what, if any, action will be taken against the employee.

3) If administrative leave is not feasible nor desirable, you may detail employee to another location until a decision can be made on what, if any, action will be pursued.

4) Collect keys, ID, and notify security guard of restricted access to building. Provide security guard with a photo of the employee.

5) Make arrangements for employee to be driven home by a non-FEMA employee, if necessary (i.e., call a family member or friend).

6) Have security guard or security division staff escort employee from the premises.

7) Notify employees of work unit of employee's restricted access to avoid inadvertent unauthorized access to the work site.

8) If there is a civil violation, such as an assault, call the Federal Protective Service to arrest the employee. A civil offense is outside the control of administrative procedures managed by the CMT or the Agency.

9) Conduct inquiry or investigation, and upon completion, determine what action, if any, is warranted, such as a proposed suspension or removal, or some lesser action, as appropriate.

b. For Less Extreme Misconduct:

1) If the offense is not extreme, the supervisor should counsel the employee and issue a verbal or written warning.

2) For a second offense that is determined to be not extreme, issue a letter of reprimand to be placed in the employee's Official Personnel Folder.

3) If there is a third offense or if the initial or subsequent offense is extreme, issue a proposed suspension or proposed removal, as determined appropriate.

c. Written Notices: Written warnings, reprimands, proposal notices and decision notices must be coordinated with the Employee and Labor Relations Division and Office of General Counsel prior to issuance to employee.

Attachment C

Employee Relations Considerations

Having an understanding of employee relations issues that come into play in violent and potentially violent situations is important for all members of the Crisis Management Team (CMT), as well as all FEMA supervisors and managers. It helps in coordinating an effective response, in determining whether outside resources will be needed in certain situations, and in ensuring that appropriate disciplinary actions are taken.

It is important to involve the employee relations staff in such matters, because most reported incidents of violence result in some type of disciplinary or adverse action. Another reason is that, since the goal of workplace violence prevention efforts is to deal effectively and consistently with problem behavior early on, reporting incidents to the security and employee relations staffs can result in swift disciplinary or adverse actions to stop the unacceptable behavior before it can escalate.

Administrative Actions to Keep Employee Away from the Work Site.

1. Immediate Short-term Action.

a. Place Employee on Excused Absence (commonly known as administrative leave). Placing the employee in a non-duty pay status is an immediate temporary solution to the problem of an employee who should be kept away from the work site. Some employees consider this a punitive measure. However, relevant case law indicates that as long as the employee continues receiving pay and benefits just as if he/she were in a duty status, excused absence does not constitute a disciplinary/adverse action, as set forth in Title 5, USC, Chapter 75.

When necessary, longer-term actions as discussed below should be taken, as appropriate. Depending on the circumstances, it may also be a good idea to offer the employee the option to work at home while on excused absence, if appropriate.

b. Detail Employee to Another Position. This can be an effective way of getting the employee away from the work site, where he or she is disturbing other employees. However, this action will be useful only if there is another position where the employee can work safely and without disrupting others.

2. Longer-Term Actions.

a. Indefinite Suspension. An indefinite suspension is an adverse action that takes an employee off-duty until the completion of an ongoing inquiry or investigation into allegations of misconduct. An indefinite suspension is usually appropriate when more than 30 days is needed to await the results of an investigation, await the completion of criminal proceedings, or make a determination on the employee's medical condition. Indefinite suspensions are covered under Title 5, Code of Federal Regulations (CFR), Part 752 adverse action procedures and require a 30-day advance notice period with pay. This means that after an indefinite suspension is proposed and a final decision is made to impose the suspension, the employee will no longer be in a pay status. The employee remains on indefinite suspension until completion of an investigation, completion of criminal proceedings, or determination is made on a medical condition.

b. Indefinite Enforced Leave. The procedure for placing an employee on enforced leave is the same as for an indefinite suspension. Title 5, CFR Part 752 procedures must be used before such action can be effected. It involves making the employee use his/her own leave (i.e., sick and/or annual leave) or placing the employee in a leave without pay (LWOP) status after the 30-day notice period with pay has expired). The employee remains on enforced leave pending the outcome of the investigation, criminal proceedings, or determination is made on the medical condition.

B. Disciplinary/Adverse Actions. If relevant information is available regarding violent, harassing, threatening, and other disruptive behavior, the supervisor must determine the appropriate disciplinary/adverse action that

should be taken. The selection of an appropriate charge and penalty should be discussed with the Employee and Labor Relations staff and Office of General Counsel. Some disciplinary/adverse actions include:

1. Reprimand, Warning, Short Suspension, and Alternative Discipline. These lesser penalties can be used in cases where the misconduct is not serious and progressive discipline may correct the problem behavior. They are an excellent means of dealing with problem behavior early on. The lesser actions involve considerably fewer procedures than the adverse actions listed below. Contact the Employee Relations staff prior to issuing a notice of this type to ensure procedural sufficiency and employee rights.

2. Removal, Reduction-in-Grade, and Suspension for More Than 14 Days. This type of action requires the issuance of a 30-day advance written notice. A 7-day notice period, instead of the usual 30-day period, is permitted when there is reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment may be imposed. Due process must be afforded to the employee prior to effecting action of this type. Contact the Employee Relations staff prior to issuing a notice of this type to ensure procedural and regulatory requirements and employee rights.

C. Disability as a Defense for Alleged Misconduct. The Equal Employment Opportunity Commission (EEOC) has issued important guidance that addresses violent misconduct by employees with disabilities. It advises that an agency may discipline an employee with a disability who has violated a rule that is job-related and consistent with business necessity, even if the misconduct is the result of the disability, as long as the same discipline would be imposed on an employee without a disability. The Rehabilitation Act does not prevent employers from maintaining a workplace free of violence or threats of violence.

The guidance also states that an agency is not required to excuse misconduct as a reasonable accommodation. Reasonable accommodation is offered to help an employee maintain acceptable performance and standards of conduct. Contact the Office of Equal Rights, Employee and Labor Relations Division, or Office of General Counsel for further guidance.

1. Ordering and Offering Medical Examinations. There are prohibitions in Federal personnel regulations regarding what medical information a supervisor can demand from the employee. Every supervisor should learn what can be **ordered** and what can be **offered**.

a. Ordering a Medical Examination. Under Title 5, CFR, Part 339, Medical Qualification Determinations, an agency may order a medical examination, including a psychiatric examination or psychological assessment, under rare circumstances. The only time an employee can be ordered to undergo such an examination is:

(1) If the position occupied requires specific medical standards and the results of a current general medical examination, which the agency has authority to order, show no physical basis to explain the behavior which may affect the safe and efficient performance of the employee or others; or

(2) If a psychiatric examination is specifically required by medical standards or a medical evaluation program.

b. Offering a Medical Examination. Under Title 5, CFR, Part 339, an agency may offer a medical examination, including a psychiatric evaluation where the agency needs additional medical information to make informed management decisions as to the employee's ability to perform safely and efficiently in the workplace. This may include situations where an employee requests for medical reasons a change in duty status, assignment, working conditions, or any other benefit or special treatment, including reasonable accommodations or employment on the basis of full or partial recovery from a medical condition. This may also include situations where the individual has a performance or conduct problem that may require agency action. The employee must be given written notice that outlines the reasons for offering the examination. Such examinations can be provided on a contractual basis through the U.S. Public Health Service, at the expense of the employing organization.

c. Refusal to Comply with Request for Medical Information. Employees are requested to provide medical information on a voluntary basis. Therefore, refusal to provide the information cannot be used as the

basis to take action against the employee. Should the employee refuse to provide the information requested, management decisions can only be based on the information available.

D. Disability Retirement. Employees with medical disabilities may be eligible for disability retirement if their medical condition warrants it and if they have the requisite years of Federal service to qualify. Regulations provided by the U.S. Office of Personnel Management specifically provide that an individual's application for disability retirement does not stop or delay the taking of an adverse action. The action, if any, should continue to be processed, while informing the employee of the option to file.

1. Assisting Employees. Employees should be counseled at any time there is reason to believe a medical condition is causing a service deficiency and the employee is eligible for disability retirement. Medical documentation may or may not be available to show that the employee is medically incapacitated. However, the option of disability retirement can be given to the employee to consider. An employee cannot be forced to file an application for disability retirement, despite a supervisor's belief that it is in the employee's best interest to file.

2. Agency-Filed Applications for Disability Retirement. Conditions under which an agency can file for disability on behalf of an employee are strictly limited. The U.S. Office of Personnel Management has set out five conditions that must be met before an agency can file on an employee's behalf:

- (a) Agency has issued a decision to remove employee;
- (b) Agency concludes, after review of medical documentation, that the cause of the unacceptable performance or misconduct is due to a medical condition;
- (c) Employee is institutionalized, or based on the agency's review of medical information and other information, it concludes that the employee is incapable of making a sound decision to file on his/her own behalf;
- (d) Employee has no representative or guardian with the authority to file on his/her behalf; and

(e) Employee has no immediate family member (spouse, parent or adult child) who is willing to file on the employee's behalf.

E. Grievance or Appeal of Disciplinary/Adverse Action. Once a disciplinary or adverse action is taken, the employee has the right to challenge the final decision. The avenues of redress available include the FEMA Administrative Grievance System, Negotiated Grievance Procedures (where a bargaining unit exists), FEMA's Equal Employment Opportunity Complaint Process, or the U.S. Merit Systems Protection Board. Supervisors should always consult the Employee and Labor Relations Division and Office of General Counsel when considering and prior to imposing a disciplinary/adverse action.

Attachment D

Employee Assistance Program Considerations

Employee Assistance Program (EAP) participation can be important to the success of the Agency's Workplace Violence Program. The EAP usually plays an active role in early prevention efforts, sometimes participate on the Crisis Management Team (CMT), and assist with organizationally recovery after an incident of workplace violence has occurred.

A. Overview of the EAP

The EAP provides short-term counseling and referral services at no cost to the employee. Services are provided through either a contractual arrangement with a private contractor or interagency agreement with another Federal agency. FEMA currently has interagency agreements with the Department of Health and Human Services and the U.S. Office of Personnel Management, and private contracts with Green Spring Health Services, Inc. The EAP is staffed by professional counselors who are available to assist with any personal or work-related problem, including performance and conduct issues, alcohol/drug abuse, or marital or financial problems. EAP counselors will refer employees to other professional services and resources within the community when it is determined that long-term counseling and assistance or medical attention is warranted. If employees are referred outside the EAP for assistance, any expenses associated with that referral are the responsibility of the employee and may be covered by the employee's health insurance.

Confidentiality is an important aspect of the program. Therefore, employees who seek EAP services are afforded considerable privacy by laws, policies, and the professional ethics of EAP professionals.

CMT members should familiarize themselves with the structure, scope, and special considerations of the EAP providers for their organizations. The CMT may identify needs for expanding the program's existing services to meet the needs of the Crisis Management Plan for their organization.

B. Role in Early Prevention Efforts.

1. Promotion of EAP. An active, well-known EAP presence can enhance the effectiveness of the Workplace Violence Program. The EAP should be promoted by issuing periodic statements to all employees, endorsing the program and reminding employees of the services offered. Another promotion technique is having EAP counselors attend staff meetings to familiarize employees and supervisors with the counselor and to have counselors give briefings and seminars for managers, employees, and union representatives.

2. Information Dissemination. Literature should be distributed periodically to all employees and supervisors regarding the services available and on various topics, such as domestic violence, stress reduction, dealing with angry customers, conflict resolution, depression in the workplace, etc.

3. Early Involvement in Organizational Change. When faced with a reorganization, restructuring, or other organizational change which may have a negative effect on employees, the EAP can help, through individual or group sessions, to keep information flowing, keep feelings under control, prevent potential outbursts, provide constructive outlets for feelings, and help employees plan for the future.

Also, since EAP counselors understand how important it is that supervisors and co-workers not diagnose an employee's problem, they are in an excellent position to explain the delicate balance between identifying problem behavior early on and labeling an individual as potentially violent.

C. Participation on the Crisis Management Team. Since every incident of workplace violence is different, EAP participation will depend on many factors. Issues need to be clarified ahead of time to avoid misunderstandings and conflict.

1. Consultation with Supervisor When Incident is Reported. Depending on the type of incident reported, it may be necessary for a counselor, along with an Employee Relations Specialist and Security Officer, to be part of the incident response team that consults with the supervisor. In some situations, such as potential suicide, the EAP can play a major role. In other situations, such as dealing with an employee who frightens co-workers, but who has not

actually done or said anything warranting discipline, the EAP can assist in working with the supervisor to plan an effective response.

2. Response/Intervention. The EAP counselor can help with conflict resolution and can work with the victim by giving advice and guidance, or with the perpetrator by helping to diffuse the anger/hostility that could lead to violence. The counselor can help clarify options and procedures in which substance abuse or mental illness seems to be a factor.

a. Individual Intervention. Prompt intervention for particularly stressful experiences are sometimes necessary. Though most employees will need only brief intervention, provision should be made for those who may need longer-term professional assistance. Debriefing sessions may be conducted immediately following the incident or 2 to 3 days after the incident. If the EAP servicing your organization is not trained to provide Critical Stress Debriefing, potential sources for additional help should be explored, such as private contractors, community health resources, university or medical school programs, or the Department of Health and Human Services, U.S. Public Health Service.

b. Consultation on Recovery. The EAP can be very helpful to management in dealing with unfamiliar challenges under high stress following the incident. An effective EAP needs to be familiar with not only providing mental health care during a crisis situation, but also with management practices that facilitate recovery and with other resources that may need to be mobilized. In thinking about an organization's recovery, there is a temptation to focus narrowly on care-giving responses, such as debriefings and counseling. These services are essential, however, the way the manager conveys information, assigns responsibilities, sets priorities, and monitors employee performance after a violent incident can play a vital role in helping or hindering recovery. Particular attention should be focused on these aspects of recovery.

3. Should the EAP Take the Incident Report? The EAP should not take the incident report, as confidentiality requirements prohibit EAP counselors from disclosing information. Putting a counselor in the position of informing CMT members about an incident could lead to serious

misunderstandings among employees and could harm the credibility of the EAP. In addition, incident reports could get confused with EAP records

covered under the Privacy Act. Many times the EAP counselor will be the first person to hear about an incident involving threatening behavior, and managers and employees often feel comfortable telling the counselor about a situation that frightens them. The planning group, therefore, should decide ahead of time which types of reports the EAP counselor should handle alone and which types should be reported to the CMT, while making sure that confidentiality requirements of the EAP are maintained.

4. Should the EAP be the First Intervenor? The EAP should not be the first intervenor in workplace violence situations for the following reasons:

- a. Issues of confidentiality cause numerous conflicts for the counselor; and
- b. It could lead to a perception of treating perpetrators of workplace violence as victims needing counseling rather than appropriate discipline.

5. Should the EAP Conduct the Psychological Examination? The EAP counselor should not perform these examinations, as they are highly specialized. The examinations should be conducted by an experienced external contractor. The Department of Health and Human Services, U.S. Public Health Service, can provide this service on a contractual basis, when warranted, at the employing organization's expense.